

## **REMARKS**

Claims 1, 3-6 and 8 remain pending in the present application. Claims 7 and 9 have been cancelled. Claims 1 and 8 have been amended. Basis for the amendments can be found throughout the specification, claims and drawings as originally filed.

### **REJECTION UNDER 35 U.S.C. § 103**

Claims 1, 3, 4 and 6-9 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Maeda, et al. (U.S. Pat. No. 5,289,968) in view of Nonomura, et al. (U.S. Pat. No. 6,600,137) and Watanabe, et al. (U.S. Pat. No. 5,823,767). Claim 5 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Maeda, et al. (U.S. Pat. No. 5,289,968) in view of Nonomura, et al. (U.S. Pat. No. 6,600,137) as applied to Claim 1 above, and further in view of Sustarsic, et al. (U.S. Pat. No. 3,984,289). This rejection is respectfully traversed. Claim 1 has been amended by adding the limitations of Claim 7, amending the gas burner and the circulation fan to be clearer and by adding the limitation that one of the atmospheric shutter chambers is disposed between the preheat chamber and the brazing chamber.

Claim 8 has been amended to include the limitations of Claim 9 and has been amended to define the combustion gas as being from a gas burner.

Maeda, et al. (U.S. Pat. No. 5,289,968) corresponds to the related art described in the specification. Maeda, et al. does not disclose the temperature and time control for the preheating process and it does not disclose only the brazing chamber being disposed between atmospheric shutter chambers. Further, Nonomura, et al. (U.S. Pat. No. 6,600,137); Watanabe, et al. (U.S. Pat. No. 5,823,767) and Sustarsic, et al. (U.S.

Pat. No. 3,984,289) do not disclose a controlled atmospheric furnace for the brazing process using flux. These references, either taken alone or in combination with Maeda, et al. are not directed to the problems to be solved in the present invention.

In the case of In re Horn, 203 U.S.P.Q. 969 (C.C.P.A. 1979), Judge Watson clearly articulated the well-known standard for combining references under 35 U.S.C. Section 103. Judge Watson stated that "...there must be some basis for concluding that the reference would be considered by one skilled in the particular art working on the pertinent problem to which the invention pertains". 203 U.S.P.Q. at 971 (emphasis added).

The C.C.P.A. also addressed the required standards for combining references under Section 103 in the case of In re Meng and Driessen, 492 F. 2d 834, 181 U.S.P.Q. 94 (C.C.P.A. 1974). In the Meng case, Chief Judge Markey stated that although an invention may appear to be rendered obvious by a disclosure in the prior art reference, such a holding of obviousness is not proper when the disclosure occurs in a reference that is not directed toward the same problem as that addressed by the invention. Judge Markey further cautioned that the teachings or suggestions of such a reference must be evaluated without the use of hindsight gleaned from the applicant's disclosure, and thus must be viewed in a vacuum so far as the applicant's invention is concerned. 181 U.S.P.Q. at 97.

Applicants submit that the proper test for evaluating prior art under 35 U.S.C. Section 103 is whether or not the prior art, either individually or taken together, can be seen as suggesting the Applicants' solution to the problem which the invention addresses. See: Rosemont, Inc. v. Beckman Instrument, Inc., 221 U.S.P.Q. 1, 7, (Fed.

Cir. 1984). The scope of pertinent prior art has been defined as that reasonably pertinent to the particular problem with which the inventor was involved. See: Lindemann Machinefabrik GMBH v. American Hoist and Derrick Co., 221 U.S.P.Q. 481, 487 (Fed. Cir. 1984). Applicants assert that the use of hindsight in picking and choosing isolated elements from various pieces to the problems addressed by Applicants' invention is improper according to the above-discussed judicial standards governing the proper application of 35 U.S.C. Section 103.

Thus, Applicant believes Claims 1 and 8, as amended, patentably distinguish over the art of record. Likewise, Claims 3-6, which ultimately depend from Claim 1, are also believed to patentably distinguish over the art of record. Reconsideration of the rejection is respectfully requested.

#### **CONCLUSION**

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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